IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 14543 of 1997

Between:

Munugala Venkata Subba Rao S/o Munugala Hanumantha Rao, R/o. Near MPs House, Bank Colony, Bhimavaram, W.G. District.

.....PETITIONER

AND

1 The Union of India Rep. by its Secretary, Ministry of Telecommunications, New Delhi.
2 The Divisional Engineer, Phones and Arbitrator, Telephone Bhavan, Kakinada, E.G. Dist.
3 Telecommunication District Manager, West Godavari District, Bhimavaram Unit.
4 The Accounts Officer (TR), O/o D.T.N., Bhimavaram Unit, W.G. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records pertaining to 2nd respondents Arbitration Proceedings Lr.No.DEP/ARB/BMV 2996/97/Kakinada, dated.9-6-1997 and declare that the award of the 2nd respondent is illegal arbitrary biased and set aside that 2nd respondent award after issuing an order or direction or writ particularly one in the nature of writ of certiorari.

Counsel for the Petitioner: MR.K.L.N.SWAMY

Counsel for the Respondent: MR.A.RAJASHEKAR REDDY (Assistant SG of India)

The Court made the following:

***ORDER*:**

The petitioner filed this writ petition seeking a Writ of Certiorari to call for the records pertaining to the Award passed by respondent No.2-Divisional Engineer in arbitration proceedings vide Lr.No.DEP/ARB/BMV 2996/97/Kakinada, dated 09.06.1997, and to declare the Award, as illegal and arbitrary, and consequently to set aside the same.

The petitioner is a subscriber of Telephone bearing No.2996. He claims that he used to receive bills bi-monthly ranging from Rs.2,000/- to Rs.4,000/. While so, the petitioner states that he received a bill on 24.05.1996 for an amount of Rs.39,332/- for the period from 16.02.1996 to 15.04.1996. Complaining of the exorbitant bill, the petitioner states that he made a complaint under Section 7(B) of the Indian Telegraph Act, 1885 to the respondents, and on receipt of the said complaint, respondent No.3-Telecommunication District Manager, Bhimavaram, issued a provisional bill for an amount of Rs.4,346/- based on the average of one year's previous bills, which the petitioner claims had paid. Thereafter, the petitioner states that respondent No.4-Accounts Officer, without giving any notice and affording any opportunity of hearing to the petitioner, passed a routine order confirming the amount of Rs.39,332/-, demanded in the bill dated 24-5-1996.

Aggrieved thereby, the petitioner filed W.P. No. 24536 of 1996, and this Court by order dated 20-11-1996, disposed of the same, directing the respondents to refer the matter to an Arbitrator for settlement of the issue. Thereupon, the petitioner states that respondent No.2-Divisional Engineer, who acted as Arbitrator, passed an Award confirming the orders of respondent No.4-Accounts Officer. In pursuance of the Award passed by respondent No.2-Divisional Engineer, the petitioner states that respondent No.4-Accounts Officer issued demand notice demanding the petitioner to pay Rs.34,986/- on or before 07.07.1997, failing which his Telephone will be disconnected without any further notice. Hence, he filed the present writ petition.

On behalf of the respondents, the Assistant General Manager (Legal)

filed counter-affidavit denying the allegations made in the writ petition. He stated that the petitioner's phone was provided with STD facility, and as per the Observation Report, the petitioner was found to have made S.T.D. calls very frequently to long distance stations for long durations. It is further stated that pursuant to the directions dated 20-11-1996, made by this Court in W.P. No.24536 of 1996, the matter was referred to arbitration, and respondent No.2-Divisional Engineer, who acted as Arbitrator found that there was no fault in the meter and the line equipment and passed the award dated 09.06.1997, which does not warrant interference by this Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India.

Heard the learned counsel for the petitioner and the learned Assistant Solicitor General of India for the respondents.

Though the petitioner contends that the sudden hike in his telephone bill is either due to faulty meter or due to wrong meter reading, and that the Arbitrator, who is a departmental person, without expressing any opinion on those aspects, had merely confirmed the demand made by the respondents, the fact remains, when the petitioner earlier by filing writ petition questioned the amount demanded by the respondents under the impugned bill, this Court directed the respondents to refer the disputed bill to arbitration, and though the Arbitrator so appointed to resolve the dispute is a departmental man of the respondents, while determining the correctness or otherwise of the disputed bill in the course of arbitration proceedings, in which the petitioner participated, the Arbitrator took into consideration the average calls made by the petitioner for each fortnight for four fortnights at regular intervals, and came to the conclusion that as per the MLOE printouts, the petitioner was found to have been making long distance STD calls very frequently to long distance places, for longer durations, and inasmuch as, the Arbitrator found that the petitioner made long distance STD calls frequently to different places in the State, and in the absence of any material produced by the petitioner to show that the meter was faulty and that there were errors in the meter reading or that the respondents manipulated the bills or the meter, no exception can be taken to the Award passed by the Arbitrator, confirming the amount demanded by the respondents under the disputed bill.

During the pendency of the writ petition, the telephone of the petitioner was disconnected, and was restored pursuant to the interim orders passed by this Court on the petitioner paying an amount of Rs.20,000/-. It is the case of the petitioner that though he paid an amount of Rs.4,346/- in pursuance of the provisional bill, the same was not given credit to by the Arbitrator. If that be so, the respondents shall after giving credit to the amounts paid by the petitioner pursuant to the interim order and the amounts paid by him pursuant to the provisional bill, are at liberty to recover the balance amount under the impugned bills.

Accordingly, the writ petition is dismissed. No costs.

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14.03.2005.

MRKR/KSR

To

1 The Union of India Rep. by its Secretary, Ministry of Telecommunications, New Delhi.
2 The Divisional Engineer, Phones and Arbitrator, Telephone Bhavan, Kakinada, E.G. Dist.
3 Telecommunication District Manager, West Godavari District, Bhimavaram Unit.
4 The Accounts Officer (TR), O/o D.T.N., Bhimavaram Unit, W.G. Dist.

5 Two C.D.copies.